Government Servants: Rules regarding the conduct of——.

No. 2098.

GENERAL DEPARTMENT.

Bombay Castle, 31st May 1889.

Memorandum from the Government of India, Home Department, Public, No. 11—831, dated 6th May 1889—Forwarding for information and guidance copy of the following Despatch from Her Majesty's Secretary of State for India, No. 16, Revenue, dated 7th February 1889:—

"I have considered the papers received with the Marquis of Dufferin's letter No. 12 (Revenue), dated 4th December last, concerning the acceptance and purchase of shares in the Hyderabad Mining Company by * * * * * * . I approve the orders that have been passed, and I have no doubt that the necessary steps will be taken to enforce obedience to those orders within a reasonable time.

"2. I observe from the correspondence that * * * was under the impression that, when his services were lent to a Company, he was at liberty to make his own arrangements as to remuneration, and that during such outside service he was not bound by the rules prohibiting Government officers from speculating or investing in commercial undertakings in the districts where they may be employed. * * * * * *. In these circumstances, I deem it desirable that the rules concerning the loan of Government officers to Native States, Municipalities and Railway or other Companies should be so modified as to make it quite clear—

(1) that the officers lent shall receive only the remuneration agreed upon or sanctioned by the Government of India in their behalf * *

* * * * * * * * *

(2) that the officers so lent remain, while on outside service, subject to the general and disciplinary rules which apply to officers on active Government service."

RESOLUTION.—Copies of the Despatch from the Secretary of State for India should be forwarded to all Departments of the Secretariat, and to all Heads of Offices under those Departments, for information and guidance.

Suits.

CIRCULAR.

No. 214.

GENERAL DEPARTMENT.

Bombay Castle, 22nd January 1874.

RESOLUTION.—Ordered that the following Circular be issued to all Departments of the Secretariat and all Heads of Offices:—

"The following extract from a letter from the Government of India, Home Department, is forwarded for the information and guidance of the several Departments of the Secretariat and the Heads of Offices:—

His Excellency in Council desires that it may be understood to be a standing order that all officers must obtain the authorization of the Government to which they are immediately subordinate, before having recourse to the Courts, for vindication of their public acts, or their character as public functionaries from defamatory attacks. This order does not affect an officer's right to defend his private dealings or behaviour in any way that may to him seem fit. But his official reputation is in the charge of the Government which he serves; and it is for the Government, which will bear the cost of all such proceedings taken under proper sanction, to decide in each case whether the proceedings are necessary and expedient."

No. 3103 OF 1876.

JUDICIAL DEPARTMENT.

Bombay Castle, 17th May 1876.

Read the following letter from the Government of India, Home Department (Judicial), No. 634, dated 3rd May 1876:—

"I am directed to acknowledge your letter No. 1939, dated 23rd March, recommending for sanction a proposal that, in supersession of the orders of the Government of India, dated 8th January 1874, which provide that Government shall bear the cost of all prosecutions instituted under proper sanction by public servants for the vindication of their public acts from defamatory attacks, it may be ruled that payment of the cost in such cases from public funds should be left to the discretion of the Local Government, and be partly dependent on the result of the prosecution.

"2. In reply, I am to say that after full consideration the Government of India would, on the whole, prefer to maintain the existing rule. In the case of the Subordinate Judge of Thana mentioned in your letter under reply, it appears that the Government have sanctioned the prosecution and the Government should therefore carry it through and defray all the prosecutor's expenses."

RESOLUTION.—Copy of this letter should be forwarded to the District Judge of Thána and all Departments of the Secretariat, in supersession of the orders contained in the latter part of Government Resolution in the Judicial Department No. 5783 of 4th October 1875.

Government Servants: Procedure to be followed by—for the vindication of their acts as public functionaries.

No. 4097.

GENERAL DEPARTMENT.

Bombay Castle, 11th October 1890.

Letter from the Government of India, Home Department (Public), No. 30-PUB.—1677, dated 15th September 1890:—

"In a General Order of the Government of India in the Foreign Department, dated the 15th March 1847, it was laid down that a Government officer is at liberty, if his public conduct in the transaction of his official duties is impugned, 'to seek redress through the usual official channel by an appeal to the Government he serves, and that the Government so appealed to will afford him every opportunity of vindicating his character.' Though the matter has since that date been dealt with in a confidential paper, no subsequent orders regulating the course to be followed by Government officers for the vindication of their acts as public functionaries have been generally circulated, and the result is that the practice in this respect is not uniform in all Provinces. The Governor General in Council therefore deems it desirable to prescribe the procedure which should be generally observed in future. I am accordingly to convey the following instructions, with the request that their purport may, with the permission of His Excellency the Governor in Council, be conveyed to the officers serving in the different branches of the administration in the Bombay Presidency.

"2. It is a standing order that without obtaining the authorization of the Government to which he is immediately subordinate no officer of Government is permitted to have recourse to the Courts for the vindication of his public acts, or of his character

as a public functionary, from defamatory attacks. In giving authority to institute proceedings the Local Government concerned will decide whether the circumstances of the case are such that the Government should bear the costs of the proceedings, civil or criminal, or leave the officer to institute the prosecution or suit at his own expense; and in the latter case it will also determine, in the event of the matter being decided by the Courts in the officer's favour, whether he should be recouped by Government the whole or any part of the costs of the action.

"3. I am to explain that the ruling above laid down does not affect an officer's right to defend his private dealings or behaviour in any way that he may be advised; but his official reputation is in the charge of the Government which he serves, and it is for that Government to decide in each case whether the institution of proceedings to vindicate his public acts or character is necessary or expedient."

RESOLUTION.—Copies of the letter from the Government of India should be forwarded to all Departments of the Secretariat and all Heads of Offices serving under them for information and guidance with reference to Government Circular No. 214, dated 22nd January 1874.

Government Officers: Connection of — with the Press.

No. 3115.

GENERAL DEPARTMENT.

Bombay Castle, 18th June 1900.

Letter from the Government of India, Home Department (Public), No. 1366, dated the 29th May 1900:—

"In Home Department Circular letter No. 30-Public—1676—1685, dated the 5th September 1890, it was laid down that, without obtaining the authorization of the Government to which he is immediately subordinate, no officer of Government is permitted to have recourse to the Courts for the vindication of his public acts, or of his character as a public functionary, from defamatory attacks, as it is for the Government to decide in each case whether the institution of proceedings is necessary or expedient. There is also the rule of the service, stated in paragraph 2 of Home Department Resolution of 3rd June 1885, that no officer of Government, not specially authorized in that behalf, is at liberty to communicate to the press, either directly or indirectly, information of which he may become possessed in the course of his official duty.

"2. Neither of these orders prohibits, except indirectly and by implication, the communication of officers with the public press in explanation or defence of their official conduct. The Governor General in Council, who holds that such action should not be permitted without official sanction, has accordingly decided to issue explicit instructions forbidding any officer of Government to communicate with the press in respect of his official conduct or acts without the prior consent in writing of the Local Government which he serves.

"3. I am accordingly to request that, with the permission of the Governor in Council, the officers serving in the Bombay Presidency may be informed of this rule of the service."

RESOLUTION.—Copies of the letter from the Government of India should be forwarded to all Departments of the Secretariat and all Heads of Offices serving under them for information and guidance, with reference to Government Resolutions No. 2426—42 Confl., dated the 29th June 1885, and No. 4097, dated the 11th October 1890.

B 1423—17